Customs Bulletin

Regulations, Rulings, Decisions, and Notices concerning Customs and related matters

and Decisions

of the United States Court of Customs and Patent Appeals and the United States Customs Court

Vol. 11 JULY 13, 1977 No. 28

This issue contains

DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 77-166)

Bonds

Discontinuance of consolidated aircraft bond (air carrier blanket bond) Customs Form 7605

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., June 22, 1977.

The following consolidated aircraft bond has been discontinued as shown below:

Name of principal and surety	Date Term Commences	Date of Approval	Filed with district director of Customs; amount
Olympic Airways, S.A., JFK International Airport, New York, NY; American Motorists Ins. Co. D 7/14/77	June 19, 1975	June 19, 1975	New York Seaport; $100,000

The foregoing principal has not been designated as a carrier of bonded merchandise.

(BON-3-01)

J. P. TEBEAU,
for LEONARD LEHMAN,
Assistant Commissioner,
Regulations and Rulings.

(T.D. 77-167)

Foreign currencies—Daily rates for countries not on quarterly list

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York for the Hong Kong dollar, Iran rial, Philippines peso, Singapore dollar, Thailand baht (tical).

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., June 22, 1977.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates in U.S. dollars for the dates and foreign currencies shown below. These rates of exchange are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Hong Kong dollar:	
June 13, 1977	$0.2131
June 14, 1977	.2129
June 15, 1977	.2125
June 16, 1977	.2125
June 17, 1977	.2125
Iran rial:	
June 13, 1977	$0.0140
June 14, 1977	.0140
June 15, 1977	.0140
June 16, 1977	.0140
June 17, 1977	.0141
Philippines peso:	
June 13, 1977	$0.1350
June 14, 1977	.1350
June 15, 1977	.1350
June 16, 1977	.1350
June 17, 1977	.1340
Singapore dollar:	
June 13, 1977	$0.4056
June 14, 1977	.4055
June 15, 1977	.4055
June 16, 1977	.4056
June 17, 1977	.4056

Thailand baht (tical):

June 13, 1977	$0.0450
June 14, 1977	.4050
June 15, 1977	.0450
June 16, 1977	.0450
June 17, 1977	.0490

(LIQ-3)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division,

(T.D. 77-168)

Foreign Currencies—Certification of Rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, D.C., June 22, 1977.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 77-106 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates:

Finland markka:

June 13, 1977	$0.2452
June 14, 1977	.2452
June 15, 1977	.2450
June 16, 1977	.2457
June 17, 1977	.2449

Sweden krona:

June 16, 1977	$0.2258

(LIQ-3)

JOHN B. O'LOUGHLIN,
Director,
Duty Assessment Division.

Decisions of the United States Court of Customs and Patent Appeals

(C.A.D. 1192)

ARTMARK CHICAGO LTD. v. THE UNITED STATES, No. 76-32
(— F. 2d —)

[1] CHIEF USE – ISSUE OF FACT

Chief use is a question of fact.

[2] ID. – EVIDENCE

That factual question having been decided in the affirmative, our inquiry is limited to whether the finding is without evidence to support it or is clearly contrary to the weight of the evidence.

[3] ID. – ULTIMATE RECIPIENT

Use of the imported article in the hands of the ultimate recipient is the decisive point of emphasis in determining chief use.

[4] ID. – TESTIMONIAL EVIDENCE

The testimony of Artmark's three merchant witnesses did not establish the ultimate use of the horses since none of the three had actually observed plastic horses of the imported class being used by the ultimate consumer. The only basis for their opinions that the horses were primarily used as decorative articles *was what customers had told them.*

[5] ID.

Since the Customs Court had the benefit of observing the demeanor of the witnesses, we are unwilling to disturb its judgment, based largely on testimonial evidence.

[6] CLASSIFICATION – PLASTIC HORSES – TSUS

Judgment of the Customs Court overruling Artmark's protest against the classification of certain imported plastic horses in item 737.40 is *affirmed.*

United States Court of Customs and Patent Appeals, June 23, 1977

Appeal from United States Customs Court, C.D. 4654

[Affirmed.]

Schwartz & Lidstrom, attorneys of record, for appellant, *Thomas J. O'Donnell, Donald J. Unger*, of counsel.

Barbara Allen Babcock, Assistant Attorney General, *David M. Cohen*, Chief, Customs Section, *Saul Davis* for the United States.

[Oral argument on May 4, 1977 by Thomas J. O'Donnell for appellant and by Saul Davis for appellee]

Before MARKEY, *Chief Judge*, RICH, BALDWIN, LANE, and MILLER, *Associate Judges*.

LANE, Judge.

This is an appeal from the judgment of the United States Customs Court in *Artmark Chicago, Ltd.* v. *United States*, 76 Cust. Ct. 187, C.D. 4654, 417 F. Supp. 1030 (1976), overruling appellant's (Artmark's) protest against the classification of certain imported plastic horses. We affirm.

The imported merchandise consists of plastic horse figures approximately ten inches high with removable plastic saddles and metal reins.

The collector classified the horses under item 737.40 of the Tariff Schedules of the United States (TSUS), as modified by Presidential Proclamation 3822, T.D. 68-9, and assessed the applicable duty rate of 17.5% ad valorem. That provision and its pertinent headnotes read:

SCHEDULE 7. - SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS

* * * * * * *

Part 5. - Arms and Ammunition; Fishing Tackle; Wheel Goods; Sporting Goods, Games and Toys

* * * * * * *

Subpart E. - Models; Dolls, Toys, Tricks, Party Favors

Subpart E headnotes:

1. The article described in the provisions of this subpart (except parts) shall be classified in such provisions, whether or not such articles are more specifically provided for elsewhere in the tariff schedules, ...

* * * * * * *

2. For the purposes of the tariff schedules, a "*toy*" is any article chiefly used for the amusement of children or adults.

* * * * * * *

Toy figures of animate objects (except dolls):
Not having a spring mechanism:

* * * * * * *

Not stuffed:

* * * * * * *

737.40 other---------- 17.5% ad val.

Artmark's contention, not reached by the Customs Court, was that the horses were properly dutiable under item 773.10:

Part 12. – Rubber and Plastics Products

Subpart C. – Specified Rubber and Plastics Products

* * * * * * *

773.10 Plaques and figurines, of rubber or plastics---------- 8.5% ad val.

Another pertinent provision of the TSUS is:

GENERAL HEADNOTES AND RULES OF INTERPRETATION

* * * * * * *

10. *General Interpretative rules.* – For the purposes of these schedules –

* * * * * * *

(e) in the absence of special language or context which otherwise requires –

(i) a tariff classification controlled by use (other than actual use) is to be determined in accordance with the use in the United States at, or immediately prior to, the date of importation, of articles of that class or kind to which the imported articles belong, and the controlling use is the chief use, i.e., the use which exceeds all other uses (if any) combined;

* * * * * * *

Relying, in part, on certain language of this court's opinion in *S. Y. Rhee Importers* v. *United States*, 61 CCPA 2, C.A.D. 1108, 486 F. 2d 1385 (1973), the Customs Court found Artmark's evidence of the merchandising channels and methods through which the horses are sold to be inconclusive on the question of chief use. Noting that Artmark's witnesses, for the most part, had not observed use of the horses by their ultimate purchasers, the court sustained the presumptively correct classification. 28 USC 2635.

On appeal Artmark urges, in substance, that the judgment below is against the weight of the evidence, which, it is argued, proves that the imported horses are chiefly used as items of decoration, ornamentation, or display. The Government asserts that the weight of the evidence clearly supports the judgment.[1]

OPINION

The issue decided by the Customs Court "boils down to whether or not the chief purpose of the objects at the time of importation was 'amusement.' " *United States* v. *Topps Chewing Gum, Inc.*, 58 CCPA 157, 158, C.A.D. 1022, 440 F. 2d 1384, 1385 (1971). **[1]** Chief use is a question of fact. *L. Tobert Co.* v. *United States*, 41 CCPA 161, 164, C.A.D. 544 (1953). **[2]** That factual question having been decided in the affirmative, our inquiry is limited to whether the finding is without evidence to support it or is clearly contrary to the weight of the evidence. *Western Stamping Corp.* v. *United States*, 57 CCPA 6, C.A.D. 968, 417 F. 2d 316 (1969); *United States* v. *Baltimore & Ohio R.R.*, 47 CCPA 1, C.A.D. 719 (1959).

We agree with the Customs Court that the evidence presented by Artmark falls short of establishing a prima facie case. **[3]** Use of the imported article in the hands of the ultimate recipient is the decisive point of emphasis in determining chief use. *S. Y. Rhee Importers* v. *United States*, supra at 5, 486 F. 2d at 1387.

[4] The testimony of Artmark's three merchant witnesses did not establish the ultimate use of the horses since none of the three had actually observed plastic horses of the imported class being used by the ultimate consumer during 1971 or 1972. The only basis for their opinions that the horses were primarily used as decorative articles was *what customers had told them.* While those opinions may have been admissible, they were not entitled to a great deal of weight and the court properly treated them as such. FED. R. EVID. 701, 702.

Artmark relies on three decisions to support the proposition that the testimony of merchants and importers is entitled to great probative value; *United States* v. *Baltimore & Ohio R.R.*, supra; *Kubie & Co.* v. *United States*, 12 Ct. Cust. Appls. 468, T.D. 40668 (1925), and *Klipstein* v. *United States*, 1 Ct. Cust. Appls. 122, T.D. 31120 (1910). While this proposition was correct on the facts of each of those cases, it does not assist Artmark to overcome the presumption of

[1] Artmark also relies on language in a Protest Review Decision involving similar merchandise as an admission by the Government of the primarily decorative nature of this type plastic horse. Since that decision was not made a part of the record below, and is not mentioned in the Customs Court's opinion, we have not considered it.

correctness here. *Klipstein* and *Kubie* both involved testimony by merchants or importers based on their *knowledge* of the use of the imported articles, rather than on what customers had told them. See *Kubie & Co.* v. *United States*, supra at 469, and *Klipstein* v. *United States*, supra at 123. In both cases, the Government presented no rebuttal witnesses to contradict or impeach the testimony of the importers. Under those circumstances the importers' testimony was given substantial probative value.

In the *Baltimore & Ohio R.R.* case, the issue was whether a particular type of imported cups and saucers was chiefly used for serving liquids or for display. The key evidence was provided by the importer's vice president, who testified that a fad of collecting "after-dinner cups and saucers" for ornamental purposes had developed in this country and that his company had endeavored to take full advantage of that source of business. The basis of that testimony was an investigation undertaken by his company which confirmed the existence of the fad and the witness' *own* perception of the fad. *Baltimore & Ohio R.R.*, supra at 4. That testimony was probative and it was, again, *unrebutted*.

Here, the Government presented substantial rebuttal testimony based on personal observations of actual use during 1971 and 1972 and testimony of the advertising, marketing, and sales of the same kind of horses in toy stores and toy departments during that period. All of this evidence buttresses the presumption of correctness even further and leaves us with no doubt that the lower court was correct.

We do not reach the question, raised by the Government, of whether collecting horses such as these for display or decoration is itself a form of amusement sufficient to classify the articles as toys within the TSUS definition.[2] We are satisfied that there is sufficient evidence on this record to support the decision. **[5]** Since the Customs Court also had the benefit of observing the demeanor of the witnesses, we are even more unwilling to distrub its decision, based largely on testimonial evidence.

Accordingly, in view of the reasons expressed above, **[6]** the judgment of the Customs Court is *affirmed*.

---

[2] The Government argues that these articles could be classified as toys based on a perceived Congressional intent to abolish a legal distinction between play toys and decorative toys. See *Tariff Classification Study, Schedule 7*, at 289-90 (1960). We would only note that the chief use of the object must be to give the same kind of enjoyment one would derive from objects commonly thought of as toys. *United States* v. *Topps Chewing Gum, Inc.*, supra. An article of real or permanent value used for decoration or display may very well not be a toy.

Decisions of the United States Customs Court

Customs Decision

E.D. 4702

PAUL M. W. BRUCKMANN *v.* UNITED STATES

On Defendant's Motion and Plaintiff's Cross-Motion for Summary Judgment

Court Nos. 72–5–01008, etc.

Port of Mobile

[Defendant's motion denied; plaintiff's cross-motion granted.]

(Dated June 16, 1977)

Paul M. W. Bruckmann pro se.
Barbara Allen Babcock, Assistant Attorney General (*David M. Cohen*, Chief, Customs Section, and *David R. Ostheimer*, trial attorney), for the defendant.

MALETZ, Judge: These consolidated cases which come before the court on cross-motions for summary judgment have been submitted on a stipulation of facts and involve the question as to the proper tariff classification of parts of street lamps that were designed to be operated by gas. More specifically, the parts—which were imported from England through the port of Mobile—consisted of:

(1) 100 articles invoiced as "gas lamp stems" which were imported in 1968;[1]
(2) 100 articles invoiced as "gas lamps complete" consisting of gas lamp "stems" and gas lamp "tops" which were imported in 1970, with the stems and tops packed in separate cases;[2]
(3) 50 articles invoiced as "gas lamps complete" likewise consisting of gas lamp "stems" and gas lamp "tops" which were imported in 1971, with the stems and tops again packed in separate cases.

The imported gas lamp stems and tops were classified by the government under item 653.39 of the Tariff Schedules of the United States which covers other illuminating articles and parts thereof of base metal, and assessed duty at the rate of 19% ad valorem.

Plaintiff, on the other hand, relying on general interpretative rule 10(ij) of the tariff schedules—which prescribes in part that "a provision for 'parts' * * * does not prevail over a specific provision for such part"—claims that the gas lamps stems, while parts of street lamps, are properly classifiable under item 652.93 of the tariff schedules, as modified, T.D. 68–9, which provides, among other things, for columns, pillars, posts, beams, girders and similar structural units, and requires a rate of duty of 2.5%, 2% or 1.5% ad valorem depending upon the date of entry.

In the alternative, plaintiff claims that since the gas lamp stems are parts, they are classifiable under item 653.30 of the tariff schedules, as modified, T.D. 68–9, which is contained under the superior heading "Illuminating articles and parts thereof, of base metal:" and covers incandescent lamps, designed to be operated by gas, dutiable at the rate of 9%, 7% or 6% ad valorem depending upon the date of entry.

Plaintiff further claims that the imported gas lamp tops are, as parts, likewise classifiable under the same item of the tariff schedules set out in the preceding paragraph, i.e., item 653.30, as modified.

---

[1] The "stems" in issue were hollow cast-iron gas lamppost stems or standards which were chiefly used to support gas lamp lanterns and to provide a hollow housing for the gas supply line.

[2] The "tops" in issue consisted of copper gas lamp lanterns and iron or steel "frogs" which connected the "tops" to the "stems." The "frogs" were not shipped attached to the "tops," but rather as separate items.

The relevant provisions of the tariff schedules are as follows:

10. General Interpretative Rules. For the purposes of these schedules—

* * * * * * *

(ij) a provision for "parts" of an article covers a product solely chiefly used as a part of such article, but does not prevail over a specific provision for such part.

Schedule 6, Part 3, Subpart F:

	Hangars and other buildings, bridges, bridge sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, door and window frames, shutters, balustrades, columns, pillars, and posts, and other structures and parts of structures, all the foregoing of base metal:	
	Of iron or steel:	
	* * * * * * *	
	Columns, pillars, posts, beams, girders, and similar structural units:	
652.93	Not in part of alloy iron or steel:	
	Cast-iron (except malleable cast-iron) articles, rough or advanced	(3)
	* * * * * * *	
	Illuminating articles and parts thereof, of base metal:	
653.30	Incandescent lamps designed to be operated by propane or other gas, or by compressed air and kerosene or gasoline	(4)
	Other:	
653.35	Table, floor and other portable lamps for indoor illumination, of brass	* * *
	Other:	
653.37	Of brass	* * *
653.39	Other	19% ad val.

[3] Under item 652.93, the rate of duty for articles entered in 1968 is 2.5% ad valorem; for articles entered in 1970, the rate of duty is 2% ad valorem; for articles entered in 1971, the rate of duty is 1.5% ad valorem.

[4] Under item 653.30, the rate of duty for articles entered in 1968 is 9% ad valorem; for articles entered in 1970, the rate of duty is 7% ad valorem; for articles entered in 1971, the rate of duty is 6% ad valorem.

I

Against the background of these tariff provisions, we consider first plaintiff's claim that by virtue of general interpretative rule 10(ij), the imported lampposts—which, as previously observed, are referred to as gas lamp stems—are properly classifiable under item 652.93 which covers columns, pillars, posts, and similar structural units of cast iron. It is undisputed that the stems are of cast iron; that each weighs in excess of 300 pounds and is in one piece; and that each is designed as a lamppost to be sunk into the ground and to support a street light lantern on top.

However, it must be concluded that the imported stems are not the type of article intended to be covered by item 652.93. Thus, in *Laurence Myers Scaffolding Co.* v. *United States*, 57 Cust. Ct. 333, 340, C.D. 2809, 259 F. Supp. 874, 879 (1966), *appeal dismissed*, 56 CCPA 133 (1967), this court, after examining various definitions covering the terms used in item 652.93, stated: "Running through the foregoing definitions is the concept that a column, pillar, or post, when ready for use, is a unitary element providing upright *support to a building* or *structure*." (Emphasis added.) And in *J. Ray McDermott & Co., Inc.* v. *United States*, 69 Cust. Ct. 197, 207, C.D. 4394, 354 F. Supp. 280, 287 (1972), *cross-appeals dismissed*, 60 CCPA 185 (1973), the court added: "From the definitions and from the decided cases, it appears that an essential characteristic of a column, pillar, or post insofar as classification for tariff purposes is concerned, is that it be a firm upright *support for a structure*." (Emphasis added.) The lamp stems here involved unquestionably do not support a building or a structure. Thus they are not structural units in a tariff sense [5] and, accordingly, are not classifiable under item 652.93.

II

We come next to plaintiff's claim that since the lamp stems and tops are parts, they were erroneously classified under item 653.39 and are properly classifiable under item 653.30. Thus, the basic issue is whether or not the provision of item 653.30 includes parts of the article described in that provision. On this phase, defendant argues that an inspection of the provisions of the tariff schedules makes it clear that item 653.39, not 653.30, is intended to encompass the

[5] The term "structure" was defined in *Simon, Buhler & Baumann* v. *United States*, 8 Ct. Cust. Appls. 273, 276, T.D. 37537 (1918), as follows:

> Ordinarily speaking, "structure" carries with it the idea of size, weight, and strength, and it has come to mean anything composed of parts capable of resisting heavy weights or strains and artificially joined together for some special use.

parts which fall under the superior heading "Illuminating articles and parts thereof, of base metal:". Elaborating on this argument, defendant states (br. p. 2):

> The colon of the superior heading clearly represents, through punctuation, an attempt to show that each provision under it is intended to be a specific elaboration of the superior heading. No implication as to the parts can therefore be made for each provision. To the contrary, if a provision is to encompass parts it should so specify. This fact is borne out by an inspection of similar type provisions of the Tariff Schedules where parts were intended to be included. For example, item 661.65 falls under a superior heading which is similar to the superior heading of item 653.30, in that it also provides for "parts thereof." Item 661.65 does however specifically provide: "Instantaneous or storage water heaters, and parts thereof." This is a prime illustration of a situation where Congress intended to include parts under a certain item and so specified. The Tariff Schedules are filled with such examples. [Footnote omitted.] It is thus clear that in those situations where Congress intended parts to be included within the embrace of an item falling under a superior heading which contains the phrase "parts thereof," Congress ordinarily specified that such item was to include parts. * * * It follows that since item 653.30 does not specifically provide for parts, Congress did not intend parts to be included thereunder, and that item 653.39, the so-called basket provision for the superior heading "Illuminating articles and parts thereof, of base metal," is the provision Congress intended the parts to be classified under.

This argument, it is concluded, is without merit. For in the court's view, it seems clear in the circumstances of this case that the reason for the superior heading in question was to render each of the provisions indented thereunder a "parts" provision. In other words, the purpose of incorporating the superior heading at the margin with the provisions following the colon indented below in series was to make plain that the superior heading modified all that followed. In point on this aspect is *Velan Steam Spec. et al.* v. *United States*, 57 CCPA 58, C.A.D. 976, 420 F. 2d 1399 (1970). In *Velan* the involved merchandise was classified under item 680.22 of the tariff schedules covering hand-operated and check valves. The importer-appellant contended that the merchandise merely consisted of parts of valves which should have been classified under item 680.27.

The provisions of the tariff schedules (as existing on the date of entry, September 23, 1963) read in material part as follows:

> Taps, cocks, valves, and similar devices,
> however operated, used to control the

	flow of liquids, gases, or solids, all the foregoing and parts thereof:	
	Hand-operated and check:	
680.20	Of copper	* * *
680.22	Other	22.5% ad val.
	Other:	
680.25	Ballcock mechanisms, and parts	* * *
680.27	Other	10% ad val.

The involved tariff schedule item, as amended by Public Law 89–241, effective December 7, 1965, read in material part as follows:

* * * * * * *

Hand-operated and check, *and parts thereof*:
[Empahasis added.]

The appellate court affirmed the decision of this court (62 Cust. Ct. 136, C.D. 3700 (1969)) on the basis that the provision for "Other" in item 680.22 covers all hand-operated valves *and parts* thereof. Particularly pertinent is the following statement of the appellate court in *Velan* (57 CCPA at 61, 420 F. 2d at 1401–2):

> We have here a situation where the applicable statute consists of a superior heading and two inferior headings with four article descriptions (items 680.20 through 680.27), two indented under each inferior heading. *The superior heading has broad sweep covering various valves and "similar devices, however operated" as well as their parts, thus indicating that parts are covered in the provisions which immediately follow.* The only article description mentioning parts per se is item 680.25, covering ballcock mechanisms and parts thereof. *Where the framework and the language admit, it is the duty of the court to so construe a statute as to give effect to every part thereof. Giving effect to the statute so as to embrace coverage for parts of hand-operated and check valves under item 680.22 as classified, is, in our opinion, fully consonant with the terms of the statute under consideration. To read the words "parts of hand-operated and check" not into item 680.22 but into item 680.27, a provision clearly intended to cover devices other than hand-operated and check, would in our judgment constitute a resort to judicial legislation contrary to congressional intent.* [Emphasis added.] [6]

It is apparent that the statutory provisions involved here are quite similar in form to the statute in *Velan*. Thus in the present case, the

---

[6] The appellate court further held that the 1965 amendment which specifically included "parts" of "hand-operated and check valves" was "intended only to clarify the language originally employed * * *." 57 CCPA at 61, 420 F. 2d at 1402, Parenthetically, it is interesting to note that in *Velan*, the government in its appellate brief (pp. 6–12) took precisely the *opposite* position it takes here. Thus, in its appellate brief (p. 8), the government stressed that the superior heading providing for "taps, cocks, valves, and similar devices * * * *and parts thereof*" (emphasis added) was applicable in reference to item 680.22 not only to other hand-operated valves but also to *parts thereof*—this notwithstanding that item 680.22 did not contain specific language covering parts.

superior heading has four article descriptions (items 653.30, 653.35, 653.37 and 653.39) with two inferior headings. And as in *Velan* the superior heading here has "broad sweep covering various * * * [illuminating articles * * *] as well as their parts, thus indicating that parts are covered in the provisions which immediately follow." 57 CCPA at 61, 420 F.2d 1401. Indeed, the statutory provisions here involved are even more persuasive than those in *Velan* in leading to the conclusion that Congress intended to provide for all parts of illuminating articles in the provisions covered by the superior heading. For here unlike the statutory structure in *Velan*—which contains a specific parts provision in item 680.25—there is no reference whatever to parts in the provisions that follow the superior heading. The point is that if the parts provision of the superior heading here involved were not to apply to all the provisions thereunder, it would have no efficacy whatever and thus would contravene the established rule of statutory construction that the entire context of a statute must be considered and every effort must be made to give effect to all of its language. See, e.g., *United States* v. *Gulf Oil Corporation, et al.*, 47 CCPA 32, 35, C.A.D. 725 (1959).

Defendant, however, argues (as previously noted) that even though a superior heading contains a provision for parts, the provisions thereunder do not encompass parts unless they so specify. This conclusion, defendant maintains, comes from an inspection of similar type provisions of the tariff schedules where parts are specifically provided for notwithstanding that the superior heading also provides for parts. However, according to defendant, an exception exists in the case of a basket provision. For in defendant's view, where a superior heading contains a parts provision, then the basket provision covers parts even though parts are not therein specified. But applying defendant's own test, an inspection of similar type provisions of the tariff schedules shows that parts are specifically provided for under various *basket provisions* notwithstanding that the superior heading also provides for parts. For example, in the same Subpart F of Schedule 6 as here involved, the provisions for chains read as follows:

> Chain and chains, and parts thereof, all the foregoing of base metal not coated or plated with precious metal:
> Of iron or steel:
> Chain or chains used for the transmission of power, and parts thereof:
> Of not over 2-inch pitch and containing more than three parts per pitch, and parts thereof:

652.12	Valued under 40 cents per pound	* * *
	* * * * * * *	
652.18	Other	* * *
652.21	Anchor or stud link chain or chains, and parts thereof	* * *
	Chain or chains (except the foregoing) the links of which are of stock essentially round in cross section, and parts thereof:	
652.24	Under 5/16 inch in diameter . .	* * *
	5/16 inch or more but under 3/8 inch in diameter	* * *
	* * * * * * *	
652.35	*Other, including parts* [emphasis added]	* * *

What this comes down to is that in connection with defendant's particular argument, other provisions of the tariff schedules afford no guidance here in determining whether or not item 653.39, the so-called basket provision for the superior heading "Illuminating articles and parts thereof * * *," is the *only* provision Congress intended parts of illuminating articles to be classified under. Nor by the same token do other provisions of the tariff schedules afford guidance here in determining whether or not item 653.30 covers parts of illuminating articles. Indeed, were we to carry defendant's reasoning to its logical conclusion, *no* provision encompassed by the superior heading "Illuminating articles and parts thereof" would cover parts. This would include, among others, item 653.39, the basket provision, and item 653.30, the claimed provision.

In sum, it is concluded that the clear intent of Congress in using the term "and parts thereof" as an adjunct to the term "illuminating articles" in the superior heading to items 653.30, 653.35, 653.37 and 653.39 is to render all of those provisions parts provisions. Otherwise, the provision for parts in the superior heading would be nugatory. It is therefore held that by virtue of the superior heading, item 653.30 of the tariff schedules provides for parts and that the imported lamp stems and tops are properly classifiable thereunder, as claimed by plaintiff.[7]

[7] In view of this conclusion, it is unnecessary to consider plaintiff's further argument that the imported gas lamps and stems are entireties classifiable under item 653.30.

For the foregoing reasons, defendant's motion for summary judgment is denied; plaintiff's cross-motion for summary judgment is granted; and the district director at the port of Mobile is hereby directed to reliquidate the imported lamp stems and tops in issue under item 653.30 of the tariff schedules, as modified, T.D. 68–9.

Decisions of the United States Customs Court

Abstracts

Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, *June 20, 1977.*

The following abstracts of decisions of the United States Customs Court at New York are published for the information and guidance of officers of the customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to customs officials in easily locating cases and tracing important facts.

G. R. DICKERSON,
Acting Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P77/95	Ford, J. June 14, 1977	C. M. Import & Export Corp.	65/16394	Par. 1531 20%	Par. 353 12.5% Radio cases and radios not appraised as en-	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	San Francisco Radio cases imported with radios; entireties

					tireties; appraisement and liquidation void; protest premature and dismissed, entry ordered returned to customs officer for appropriate administrative action		
P77/96	Ford, J. June 14, 1977	C. M. Import & Export Corp.	65/20770	Par. 1531 20%	Par. 353 12.5% Radio cases and radios not appraised as entireties; appraisements and liquidations void; protest premature and dismissed; entries ordered returned to customs officer for appropriate administrative action Protest overruled as to entry WHB 2560	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	San Francisco Radio cases imported with radios; entireties

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P77/97	Ford, J. June 14, 1977	Nomura (America) Corp et al.	64/25163, etc.	Par. 1531 20%	Par. 353 12.5% Radio cases and radios not appraised as entireties; appraisements and liquidations void; protests premature and dismissed; entries ordered returned to customs officer for appropriate adminsitrative action	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	New York Radio cases imported with radios; entireties
P77/98	Ford, J. June 14, 1977	Nomura (America) Corp. et al.	68/7262, etc.	Item 706.08 20%	Item 685.22 12.5% Radio cases and radios not appraised as entireties; appraisements and liquidations void; protests premature and dismissed; entries ordered	Judgment on the pleadings Lafayette Radio Electronics Corp. v. U.S. (C.A.D. 977)	New York Radio cases imported with radios; entireties

					returned to customs officer for appropriate administrative action		
P77/99	Ford, J. June 14, 1977	Universal Transcontinental Corp.	66/25503-8	Par. 353 12.5%	Radio cases and radios not appraised as entireties; appraisement and liquidation void; protest premature and dismissed; entries ordered returned to customs officer for appropriate administrative action	Judgment on the pleadings	New York Radio cases imported with radios; entireties
P77/100	Maletz, J. June 14, 1977	Montgomery Ward & Co.	75-2-00345	Item 685.30 6.5%	Item 678.50 5%	Judgment on the pleadings	New York Model No. 62-6254 deluxe AM]FM track player with full size changer cutout; model No. 62-6284 AM/FM stereo 8-track with changer cutout
P77/101	Maletz, J. June 14, 1977	Nichimen Co., Inc.	75-2-00389	Item 685.30 6.5%	Item 678.50 5%	Judgment on the pleadings	Los Angeles Model TG-440 "Electrophonic" brand AM/FM/MPX radio receiver with 8-track player

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HELD	BASIS	PORT OF ENTRY AND MERCHANDISE
				Par. or Item No. and Rate	Par. or Item No. and Rate		
P77/102	Ford, J. June 16, 1977	Amco Custom Brokerage Co.	68/58658	Item 653.37 17%	Item 653.35 9%	U.S. v. Morris Friedman & Co. (C.A.S. 1156)	Philadelphia Candlesticks, candleholders, etc.
P77/103	Ford, J. June 16, 1977	David Komisar & Son, Inc.	73-7-01700	Item 646.60 15.5% or 13%	Item 646.49 12.5%	Summary judgment (motion to incorporate Trans-Atlantic Company v. U.S. (C.D. 4344) and David Komisar & Son, Inc., et al. v. U.S. (C.D. 4674) and motion for summary judgment granted)	New York Screws for use in wood
P77/104	Ford, J. June 16, 1977	Otagiri Mercantile Co., Inc., et al.	72-5-01194, etc.	Item 653.37 13% or 11%	Item 653.35 7% or 6%	U.S. v. Morris Friedman & Co. (C.A.D. 1156)	New York Candleholders
P77/105	Newman, J. June 16, 1977	Fedtro, Inc.	68/52462	Item 682.60 15%	Item 688.40 11.5%	Fedtro, Inc. v. U.S. (C.D. 4548)	New York Multi purpose battery chargers

Decisions of the United States Customs Court

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R77/43	Ford, J. June 14, 1977	F. W. Myers & Co., Inc.	73-2-00385	Export value	$26.00 per CWT less 1% cash discount, less freight of $1.45 per CWT, less brokerage and duty included	Agreed statement of facts	Champlain-Rouses Pt. (Ogdensburg) Titanium dioxide pigments
R77/44	Ford, J. June 14, 1977	F. W. Myers & Co., Inc.	73-3-00685	Export value	$26.00 per CWT (U.S. currency), less 1% cash discount, less freight of $1.45 per CWT (Canadian currency), less brokerage and duty included	Agreed statement of facts	Port Huron (Detroit) Titanium dioxide pigments
R77/45	Ford, J. June 14, 1977	F. W. Myers & Co., Inc.	73-6-01558	Export value	Set forth under column "Claimed Value" on schedule attached to decision and judgment	Agreed statement of facts	Port Huron (Detroit); Champlain-Rouses Pt. (Ogdensburg) Titanium dioxide pigments

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R77/46	Ford, J. June 14, 1977	F. W. Myers & Co., Inc.	73-11-03049	Export value	$26.00 per CWT (U.S. currency), less 1% cash discount, less freight of $1.45 per CWT (Canadian currency), less brokerage and duty included	Agreed statement of facts	Champlain-Rouses Pt. (Ogdensburg) Titanium dioxide pigments
R77/47	Maletz, J. June 16, 1977	F. W. Myers & Co., Inc.	74-5-01331	Export value	$27.00 per CWT (U.S. currency), less 1% cash discount, less freight of $1.45 per CWT (Canadian currency), less brokerage and duty included	Agreed statement of facts	Port Huron (Detroit) Titanium dioxide pigments

Decision on Motion for Rehearing

JUNE 15, 1977

McDONNELL DOUGLAS CORP. *v.* UNITED STATES, COURT NO. 72-6-01395.—DC-9 AIRPLANE.—C.D. 4692. MOTION BY PLAINTIFF DENIED.

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